

Trials Group Of The Year: Gibson Dunn

By Steven Trader

Law360, New York (January 20, 2017, 6:44 PM EST) -- For proof that Gibson Dunn & Crutcher LLP's trial team belongs among Law360's Practice Groups of the Year, look no further than the astronomical \$3 billion verdict it landed for HP against Oracle in June, though if you did, you'd find a number of additional high-profile victories with enormous sums as well.

The litigation between Hewlett Packard Enterprise Corp. and Oracle Corp. — a battle royal involving two technology industry titans, as Gibson Dunn litigation practice co-chair Randy Mastro describes it — stemmed from claims that Oracle, by phasing out software for an HP server and hurting its rival's sales, broke a past settlement agreement reached in a dispute over whether it poached former HP CEO Mark Hurd.

The contentious five-year dispute played out in several phases: first a bench trial establishing the breach occurred, then an appeal, and then finally a damages trial that itself lasted five weeks, which culminated in a \$3 billion verdict in favor of HP, one of the largest single-plaintiff jury verdicts in U.S. history.

Mastro said lead trial attorney Jeff Thomas performed masterfully against tough competition, outperforming them at every stage of the grueling contest to win the case of a lifetime.

"When you get the call from the court and they tell you the jury has a verdict and to come down, that's an anxious 30 minutes," Thomas said. "But once the verdict was read and we realized we'd gotten a hundred percent of what we'd asked for, that was very exciting."

The case was a perfect example of how collaboration is crucial at Gibson Dunn, Thomas said, as it was a big team that required everyone rolling up their sleeves, coming together in a collegial, supportive way and giving it their all.

"To me that's the funnest part about it; you're together 24-7 for however many weeks, and being a part of that team, that collaborative work effort, I really love that, it's rewarding to me," Thomas said.

Months prior to the HP trial rout, back in October 2015, Gibson Dunn's litigation team helped T-Mobile



USA Inc. stare down and defeat claims by Prism Technologies of infringement on two of its network authentication patents, convincing a seven-member Nebraska jury otherwise and avoiding a potentially \$100 million damages tab.

Compounding the difficulty of that case was the judge's decision to let Prism inform the jury that, just months earlier, Sprint Corp. was found in the same court to have infringed the same patents, while AT&T Inc. had settled identical claims a year earlier. Remarkably though, Gibson Dunn walked away with a complete victory.

In April, Gibson Dunn convinced a California jury to award Aetna Inc. more than \$37.4 million in damages on claims that a network of Northern California surgical centers overbilled the insurer for out-of-pocket procedures through a complex scheme in which referring physicians received substantial kickbacks.

Another of the firm's huge wins came in August, when the Second Circuit upheld a lower court's conclusion that a \$9.5 billion oil pollution judgment against Chevron in Ecuador was fraudulently produced and could not be enforced.

After Chevron had been hit with the 2013 judgment, Gibson Dunn stepped in and slapped the opposing plaintiffs' attorney Steven Donziger with a Racketeer Influenced and Corrupt Organizations claim for allegedly bribing the Ecuadorean court and ghostwriting the judgment it issued.

In October, Gibson Dunn convinced the U.S. International Trade Commission to drop its investigation into whether Fitbit Inc. stole trade secrets from rival Jawbone, which came on the heels of an August decision by the commission exonerating Fitbit from a portion of the rival's infringement claims.

The company also continues its battle against the U.S. Securities and Exchange Commission on behalf of private equity magnate Lynn Tilton, who was accused of misleading investors about the performance of funds, known as the Zohar funds, to the tune of \$200 million. A decision by the commission following that multiweek trial is expected any day.

If the emerging trend is not clear by now, it should be: Gibson Dunn's litigation team does not fear stepping into the courtroom boxing ring on behalf of major Fortune 500 companies with huge stakes on the line, and more often than not the firm emerges on the winning side.

"We love to try cases," Mastro said. "And they are tough bruising battles where the company or individual's reputation is on the line too. But we love big stakes, big case trial work, and the results speak for themselves."

--Additional reporting by Carmen Germaine, Ryan Davis, Keith Goldberg, Melissa Daniels and Bonnie Eslinger. Editing by Bruce Goldman.